IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.687 OF 2006

Smt. Rajashri Rajendra Mhamunkar .. Petitioner
v/s.
Rajendra Mhamunkar and another .. Respondents

Mr. Milind R. Deshpande for the petitioner.
Mr. P.A. Pol, APP for the respondent-State.

CORAM : B.H. MARLAPALLE, J.
DATED : 6TH AUGUST, 2007

P.C.

Heard Mr. Milind Deshpande, learned counsel for the petitioner-wife.

2. The petitioner-wife had filed an application under section 125 of the Criminal Procedure Code claiming maintenance from the respondent-husband and the said application came to be rejected by the learned Judicial Magistrate, First Class, at Pali. The wife, therefore, approached the sessions court in Criminal Revision Application No.61 of 2005 which also was dismissed by the Sessions Judge at Raigad on 30.6.2005.

3. Both the courts below have concurrently held that the wife has failed to prove that the husband refused or neglected to maintain her. Both the parties appeared before this court and with an intention to make settlement between the two, they appeared before me in my chamber. The husband again repeated his offer to cohabit with the wife and requested her to join his company at his

parent' shome. He also stated that he would attend to his daily duties with the railways by travelling and he would not have the overnight halt at the station where he is posted by railways. The father of the petitioner-wife was willing to consider such an offer but left it to the decision of his daughter. Time was sought and today Mr. Deshpande, on instructions states that the petitioner-wife is not willing to co-habit with the petitioner unless he takes some separate house and stays away from his parents.

4. The view taken by both the courts below that the wife has deserted the husband cannot be termed as perverse or patently illegal and therefore, there is no reason to call for any interference in the same in this petition under Article227 of the Constitution of India.

Petition is rejected summarily.

(B.H. MARLAPALLE, J.)